

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

APR 25 1994

J. BARN GRISHON
BY: 
Deputy Clerk

In Re:

WILLIAM M. KASEY,

Debtor.

) Case No. 94-30153
) Chapter 13
)
)
)

JUDGMENT ENTERED ON APR 25 1994

ORDER OVERRULING TRUSTEE'S OBJECTION TO CONFIRMATION
AND DENYING MOTION TO DISMISS OR CONVERT

THIS MATTER is before the court on the standing trustee's objection, filed March 15, 1994, to the debtor's proposed plan. The plan attempts to cure a default on the debtor's home mortgage. Under the plan, the debtor would pay the arrearages during the life of the plan, but would not pay any interest on those arrearages. The trustee objects to the plan's failure to provide for post-petition interest payments on the arrearages. All parties have represented to the court that the value of the underlying real property is not sufficient to cover any of the arrearages, i.e., the creditor is undersecured.

Because the creditor is not secured as to arrearages, this case is distinguishable from Rake v. Wade, 113 S.Ct 2187 (1993). In Wade, Justice Thomas held that a chapter 13 debtor who attempts to cure a mortgage in default must pay post-petition interest on the arrearages if the value of the collateral is sufficient to cover those arrearages and interest. Justice Thomas, however, based his decision on section 1325(a)(5) of the bankruptcy code which addresses only "allowed secured claims." 11 U.S.C. § 1325(a)(5). Thus, because the creditor is not

secured as to the arrearages in this case, the creditor is not entitled to interest on the arrearages. The trustee's objection is overruled; and, the motion to dismiss or convert is denied.

IT IS SO ORDERED.

This the 22d day of April, 1994.

Amir R. Hodges
United States Bankruptcy Judge